

§ 232.5

32 CFR Ch. I (7–1–15 Edition)

(1) Agreed to under the terms of the credit agreement or promissory note;

(2) Authorized by applicable State or Federal law; and

(3) Not specifically prohibited by this part.

(b) A creditor described in paragraph (a) of this section or an assignee may not impose an MAPR greater than 36 percent in connection with an extension of consumer credit to a covered borrower.

§ 232.5 Identification of covered borrower.

(a) This part shall not apply to a consumer credit transaction if the conditions described in paragraphs (a)(1) and (a)(2) of this section are met:

(1) Prior to becoming obligated on the transaction, each applicant is provided with a clear and conspicuous “covered borrower identification statement” substantially similar to the following statement and each applicant signs the statement indicating that he or she is or is not a covered borrower:

Federal law provides important protections to active duty members of the Armed Forces and their dependents. To ensure that these protections are provided to eligible applicants, we require you to sign one of the following statements as applicable:

I AM a regular or reserve member of the Army, Navy, Marine Corps, Air Force, or Coast Guard, serving on active duty under a call or order that does not specify a period of 30 days or fewer.

I AM a dependent of a member of the Armed Forces on active duty as described above, because I am the member’s spouse, the member’s child under the age of eighteen years old, or I am an individual for whom the member provided more than one-half of my financial support for 180 days immediately preceding today’s date.

—OR—

I AM NOT a regular or reserve member of the Army, Navy, Marine Corps, Air Force, or Coast Guard, serving on active duty under a call or order that does not specify a period of 30 days or fewer (or a dependent of such a member).

Warning: It is important to fill out this form accurately. Knowingly making a false statement on a credit application is a crime

(2) The creditor has not determined, pursuant to the optional verification procedures in paragraphs (b) or (c) of this section, that any such applicant is a covered borrower.

(b) The creditor may, but is not required to, verify the status of an applicant as a covered borrower by requesting the applicant to provide a current (previous month) military leave and earning statement, or a military identification card (DD Form 2 for members, DD Form 1173 for dependents), as described in DoD Instruction 1003.1, *Identification (ID) Cards for Members of the Uniformed Services, Their Dependents, and Other Eligible Individuals*, December 5, 1997. Upon such request, activated members of the National Guard or Reserves shall also provide a copy of the military orders calling the covered member to military service and any orders further extending military service.

(c) The creditor may, but is not required to, verify the status of an applicant as a covered borrower by accessing the information available at <http://www.dmdc.osd.mil/mla/owa/home>. Searches require the service member’s full name, Social Security number, and date of birth.

(d) This part shall not apply to a consumer credit transaction in which the creditor rolls over, renews, repays, refinances, or consolidates consumer credit in accordance with § 232.8(a)(1) if § 232.5(a)(1) and § 232.5(a)(2) applied to the previous transaction.

§ 232.6 Mandatory loan disclosures.

(a) *Required information.* With respect to any extension of consumer credit (including any consumer credit originated or extended through the internet) to a covered borrower, a creditor shall provide to the member or dependent the following information clearly and conspicuously before consummation of the consumer credit transaction:

(1) The MAPR applicable to the extension of consumer credit, and the total dollar amount of all charges included in the MAPR.

(2) Any disclosures required by Regulation Z (Truth in Lending), 12 CFR part 226.

(3) A clear description of the payment obligation of the covered borrower, as applicable. A payment schedule provided pursuant to paragraph (a)(2) of this section satisfies this requirement.

(4) A statement that “Federal law provides important protections to regular or reserve members of the Army, Navy, Marine Corps, Air Force, or Coast Guard, serving on active duty under a call or order that does not specify a period of 30 days or fewer, and their dependents. Members of the Armed Forces and their dependents may be able to obtain financial assistance from Army Emergency Relief, Navy and Marine Corps Relief Society, the Air Force Aid Society, or Coast Guard Mutual Aid. Members of the Armed Forces and their dependents may request free legal advice regarding an application for credit from a service legal assistance office or financial counseling from a consumer credit counselor.”

(b) *Method of disclosure.* (1) *Written disclosures.* The creditor shall provide the disclosures required by paragraph (a) in writing in a form the covered borrower can keep.

(2) *Oral disclosures.* The creditor also shall provide the disclosures required by paragraphs (a)(1), (a)(3) and (a)(4) of this section orally before consummation. In mail and internet transactions, the creditor satisfies this requirement if it provides a toll-free telephone number on or with the written disclosures that consumers may use to obtain oral disclosures and the creditor provides oral disclosures when the covered borrower contacts the creditor for this purpose.

(c) *When disclosures are required for refinancing or renewal of covered loan.* The refinancing or renewal of a covered loan requires new disclosures under § 232.6 only when the transaction would be considered a new transaction that requires disclosures under the Truth in Lending Act, as implemented by the Federal Reserve Board’s Regulation Z, 12 CFR part 226.

§ 232.7 Preemption.

(a) *Inconsistent laws.* 10 U.S.C. 987 as implemented by this part preempts any State or Federal law, rule or regula-

tion, including any State usury law, to the extent such law, rule or regulation is inconsistent with this part, except that any such law, rule or regulation is not preempted by this part to the extent that it provides protection to a covered borrower greater than those protections provided by 10 U.S.C. 987 and this part.

(b) Different treatment under State law of covered borrowers is prohibited. States may not:

(1) Authorize creditors to charge covered borrowers rates of interest that are higher than the legal limit for residents of the State, or

(2) Permit the violation or waiver of any State consumer lending protection that is for the benefit of residents of the State on the basis of the covered borrower’s nonresident or military status, regardless of the covered borrower’s domicile or permanent home of record, provided that the protection would otherwise apply to the covered borrower.

§ 232.8 Limitations.

(a) 10 U.S.C. 987 makes it unlawful for any creditor to extend consumer credit to a covered borrower with respect to which:

(1) The creditor rolls over, renews, repays, refinances, or consolidates any consumer credit extended to the covered borrower by the same creditor with the proceeds of other consumer credit extended by that creditor to the same covered borrower, unless the new transaction results in more favorable terms to the covered borrower, such as a lower MAPR. This part shall not apply to a transaction permitted by this paragraph when the same creditor extends consumer credit to a covered borrower to refinance or renew an extension of credit that was not covered by this part because the consumer was not a covered borrower at the time of the original transaction.

(2) The covered borrower is required to waive the covered borrower’s right to legal recourse under any otherwise applicable provision of State or Federal law, including any provision of the Servicemembers Civil Relief Act (50 U.S.C. App. 10 U.S.C. 527 *et seq.*).

(3) The creditor requires the covered borrower to submit to arbitration or